

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 319 - HB 723

March 4, 2017

SUMMARY OF BILL: Creates an affirmative defense to the enhanced punishment for selling drugs within 1,000 feet of a school if the defendant was lured to the area by a law enforcement officer or a law enforcement officer's agent.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$32,100/Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-17-432 enhances drug offenses under Tenn. Code Ann. § 39-17-417 by one classification if committed within 1,000 feet of a school, child care agency, public library, or park, also known as a “drug-free zone”.
- The proposed legislation creates an affirmative defense to this enhancement if the defendant was lured to the drug-free zone or the drug-free zone was suggested or requested by a law enforcement officer or the officer's agent.
- Affirmative defenses are applied on a case-by-case basis depending upon the facts surrounding the offense.
- Drug offenses under Tenn. Code Ann. § 39-17-417 range from class E felonies to class B felonies. It is assumed that most defendants to whom this affirmative defense will be available will be charged with class D felonies from possessing or selling drugs in a drug-free zone.
- The proposed legislation will prohibit these offenses from being enhanced to a class C felony.
- It is assumed that the proposed legislation will result in one offense per year being sentenced as a class D felony rather than a class C felony.
- The average time served for a class C felony is 3.51 years; the average time served for a class D felony is 2.23 years. The proposed legislation will result in the defendant serving 1.28 fewer years (467.52 days) than under current law.
- Population growth will not affect the proposed legislation.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2017 is \$68.75.
- The proposed legislation will decrease state incarceration costs by \$32,142 (1 defendant x 467.52 days x \$68.75).

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**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm